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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 DANIEL MARCUS HARRIS,

12 Petitioner,

2:05-cv-0242-GEB-JFM-HC

13 vs.

14 DARREL ADAMS, Warden, et al.,

15 Respondents.

ORDER

16 _____/
17 Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of
18 this court's September 24, 2009 denial of his application for a writ of habeas corpus together
19 with a motion for a certificate of appealability pursuant to 28 U.S.C. § 2253(c).

20 A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the
21 applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C.
22 § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues
23 satisfy the required showing or must state the reasons why such a certificate should not issue.
24 Fed. R. App. P. 22(b).

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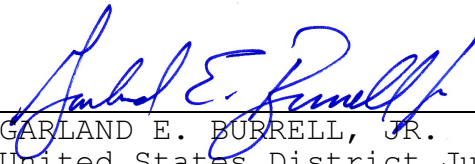
1 For the reasons set forth in the magistrate judge's August 25, 2009 findings and
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
3 right.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Petitioner's October 26, 2009 motion for a certificate of appealability is
6 denied; and

7 2. The Clerk of the Court is directed to process petitioner's appeal to the United
8 States Court of Appeals for the Ninth Circuit.

9 Dated: October 28, 2009

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12 GARLAND E. BURRELL, JR.
United States District Judge
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